

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JIA JIA ZHENG, as Administrator of the Estate of
EWAN LIU,

Plaintiff,

-against-

NEW YORK PRESBYTERIAN LOWER
MANHATTAN HOSPITAL et al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 5/16/2024

24-CV-02136 (MMG)

ORDER OF DISMISSAL

MARGARET M. GARNETT, United States District Judge:

“[S]ubject matter jurisdiction is an unwaivable *sine qua non* for the exercise of federal judicial power.” *Curley v. Brignoli, Curley & Roberts Assocs.*, 915 F.2d 81, 83 (2d Cir. 1990). Consistent with that proposition, Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

In this case, Defendants Charles B. Wang Community Health Center and Allan Ho, M.D. (the “Health Center Defendants”) removed this action from New York Supreme court. *See* Dkt. 1. Pursuant to a stipulation by Plaintiff and the Health Center Defendants, the United States of America was substituted as a defendant in place of the Health Center Defendants, and Plaintiff’s claims against the United State of America were dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii). *See* Dkt. No. 13. Plaintiff’s non-federal claims against Defendant New York Presbyterian Lower Manhattan Hospital remain.

A review of the notice of removal and the complaint in this action reveals no basis for federal subject matter jurisdiction over the remaining claims. *See* Dkt. No. 1.

Accordingly, the complaint is hereby REMANDED to New York Supreme Court without prejudice for lack of subject matter jurisdiction. Any pending motions are moot, and any conferences are canceled. The Clerk of Court is directed to close the case.

Dated: May 16, 2024
New York, New York

SO ORDERED.


MARGARET M. GARNETT
United States District Judge